



Teachers Credit Union
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VIA: Facsimile and Electronic Submission

July 29, 2004

Ms. Jennifer J. Johnson
Secretary – Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue
Washington, D.C. 20551

RE: Regulation DD; Docket No. R-1197

Dear Ms. Johnson,

Please accept this letter on behalf of Teachers Credit Union in response to the notice of proposed rulemaking and request for public comment, as published by the Federal Reserve Board in the June 7, 2004 Federal Register. The Proposed Rule would amend Regulation DD, the Truth in Savings Act, to require financial institutions to provide additional disclosure information about overdraft protection programs, including the marketing of said programs. Teachers Credit Union sincerely appreciates the opportunity to comment on this momentous issue.

Generally, Teachers Credit Union supports the Federal Reserve Board's intention to treat overdraft programs under the Truth in Savings Act, rather than Regulation Z as a credit product. Teachers Credit Union also appreciates the Board's desire to provide guidance to financial institutions pertaining to overdraft programs; however, we believe the level of specificity offered in the Proposed Rule would result in the imposition of adverse circumstances to financial institutions in compliance with the Proposed Rule. Below please find Teachers Credit Union's concerns with the Proposed Rule.

Section 230.4 Account Disclosures

Currently under the Truth in Savings Act and Regulation DD, institutions must provide a schedule describing fees in connection with accounts. The Proposed Rule suggests that financial institutions include in their account-opening disclosures the types of transactions for which an overdraft protection program fee applies. Specifically, the disclosure would state that overdraft protection fees may be assessed in connection with checks, ATM withdrawals, or other electronic fund transfers that overdraw accounts and must provide a list of the types of transactions that

would trigger overdraft fees. Teachers Credit Union supports the proposal to provide additional information to consumers regarding the types of transactions for which overdraft fees may be assessed. However, Teachers Credit Union respectfully disagrees with the necessity of supplying an exhaustive list of every type of transaction, which may trigger an overdraft fee. Instead, we believe an exemplary list, which clearly and accurately discloses to the consumer that a fee may be assessed for overdrafts in connection with checks, ATM withdrawals, or other electronic fund transfers, accurately satisfies the requirements of this provision.

Section 230.6 Periodic Statement Disclosures

Under the Proposed Rule, institutions would be required to provide on periodic statements a total dollar amount for overdraft or returned-item fees. The Board suggests this in order to better inform consumers about the cumulative effects of using an overdraft program on a regular basis.

Teachers Credit Union respectfully disagrees with the Board's proposal to require a monthly and year-to-date total for overdraft and returned-item fees. Teachers Credit Union also disagrees with the Board's statement in Section III of the Proposed Rule that the overall cost of obtaining credit through an overdraft service is not clearly disclosed to consumers. Current disclosures required under Regulation DD accurately disclose to consumers the amount of and specific type of fees incurred by consumers on a transaction-by-transaction basis. Furthermore, it is more likely that consumers will be more aware of these fees in relation to other fees, as financial institutions notify consumers in writing if a check or other item overdraws an account. In clarification, an overdraft is not considered an extension of credit under the Truth in Lending Act, unless it is a line of credit, established by a written agreement.

Requiring financial institutions to modify computer systems to implement changes in the proposed ruling to create a total amount of fees for the year-to-date would impose a significant amount of costs to financial institutions with little to no benefit. Such provisions would be cumbersome to deliver as many core-processing systems of financial institutions have limited functionality to comply with the proposed requirements of this provision.

Finally, Teachers Credit Union would like to express its concern that overdraft fees are being targeted for special treatment. The Board's proposal has the potential to distract and confuse consumers in regard to other fees and account costs, especially those disclosed on periodic statements. Fees such as those for ATM withdrawals, balance inquiries,

and stop payment orders may be equally as important to consumers as are overdraft fees.

Section 230.8 Advertising

While Teachers Credit Union strongly supports the existing rule in Regulation DD that prohibits the use of advertisements that are misleading or inaccurate, we would like to express our concern with the breadth and overly broad nature of the proposed changes to advertising rules.

The Proposed Rule adds the requirement that financial institutions include in their advertisements about overdraft services the fee for the payment of each overdraft item, the types of transactions covered, the time period consumers have to repay or cover any overdraft, and the circumstances under which the institution would not pay an overdraft. Teachers Credit Union believes that the proposed changes to advertising rules requires the disclosure of information in excess of what is necessary. Teachers Credit Union believes that the use of an exemplary list would satisfy the requirements of this section.

In response to the comments solicited in Section 230.8 of the Proposed Rule, Teachers Credit Union does not agree with the statement that advertising to consumers that the institution will pay overdrafts up to a specified amount is misleading to consumers regarding the nature of the service. We also disagree that such an advertisement would mislead consumers about whether an institution would pay an overdraft or not. There are instances in which an institution would not pay an overdraft, especially in the instance of fraud and protecting the best interest of the consumer and financial institution. Teachers Credit Union states in its overdraft protection agreement and account terms and conditions, that we may pay overdrafts by transferring funds from checking or savings accounts, but we are under no obligation to cover any overdraft that exceeds the balance in an account. Teachers Credit Union also states that should the member wish to use the overdraft program as a line of credit, a prior approved line of credit is required in accordance with our loan policy and is subject to Regulation Z and Truth in Lending disclosures.

Furthermore, Teachers Credit Union discloses that ACH transfers are subject to Article 4 of the Uniform Commercial Code (UCC) and that payments are made to a member, or originated by a member, are provisional until final settlement is made, and that we are entitled to a refund of the provisional amount if final settlement is not made. Therefore, Teachers Credit Union may provide provisional funds to cover an inadvertent overdraft, but discloses to the consumer that we are entitled to a refund for doing so.

In conclusion, while Teachers Credit Union agrees with providing accurate disclosures and advertisements to consumers in regard to overdraft programs, we believe the Board's proposal requires clarification and revision, as some of the changes are broad and overreaching.

Again, Teachers Credit Union appreciates the opportunity to comment on the Board's Proposed Rule.

Sincerely,

Valerie M. Miller
VP & General Counsel

VMM/kt

CC: Chris Beaumont, Vice President, Governmental Affairs
Indiana Credit Union League